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No. 84-1621

In The
Supreme Court of the United States
October Term, 1984

OCCIDENTAL OIL SHALE, INC.,
Petitioner,

vs.

STATE BOARD OF LAND COMMISSIONERS OF COLORADO and its members Rowena Rogers, John S. Wilkes, III and Tommy Neal,
Respondents.

BRIEF OF RESPONDENTS IN OPPOSITION TO THE PETITION FOR WRIT OF CERTIORARI TO THE COLORADO SUPREME COURT

DUANE WOODARD
Attorney General

CHARLES B. HOWE
Deputy Attorney General

RICHARD H. FORMAN
Solicitor General

JANET L. MILLER
Deputy Attorney General
Natural Resources Section

Attorneys for Respondents

1525 Sherman Street, 3d Floor
Denver, Colorado 80203
Telephone: (303) 866-3611

COCKLE LAW BRIEF PRINTING CO., (800) 835-7427 Ext. 333

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QUESTION PRESENTED FOR REVIEW

Whether the Colorado Supreme Court properly upheld the decision of the Colorado Land Board denying the petitioner an exploration permit under the Colorado Mineral Location Statute on the basis that the lands in question did not belong to the state upon selection.

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES iii

STATEMENT OF THE CASE 1

SUMMARY OF THE ARGUMENT 5

ARGUMENT

I. THE PETITION FOR WRIT OF CERTIORARI SHOULD BE DENIED, SINCE THE ONLY ISSUE PRESENTED IS WHETHER THE COLORADO SUPREME COURT PROPERLY CONSTRUED A COLORADO STATUTE WHICH DOES NOT RAISE A SIGNIFICANT FEDERAL QUESTION. 6

A. The Colorado Supreme Court properly determined, under state law, that Occidental was not entitled to a permit to explore for oil shale on selected indemnity lands. 7

B. The Colorado Supreme Court's decision upholding the Colorado Land Board's interpretation of a state statute does not raise a significant federal question. 10

II. THE PETITION FOR WRIT OF CERTIORARI SHOULD BE DENIED SINCE OCCIDENTAL HAS NOT CLAIMED A DEPRIVATION OF ITS FEDERALLY PROTECTED RIGHTS AND SINCE IT CANNOT DEMONSTRATE THAT IT WOULD BE BENEFITED BY REVIEW BY THIS COURT. 14

CONCLUSION 16

TABLE OF AUTHORITIES

Cases

Page

Andrus v. Utah, 446 U.S. 500 (1980) 10, 11, 12, 13

Bateman v. Arizona, 429 U.S. 1302 (1976) 15

Black v. Cutter Laboratories, 351 U.S. 292 (1955) 7

Evans v. Simpson, 190 Colo. 426, 547 P.2d 931 (1976) 1

Herb v. Pitcairn, 324 U.S. 117 (1944) 7, 9

Justheim v. Division of State Lands, 659 P.2d 1075 (Utah 1983) 11

Liberty Warehouse Co. v. Burley Tobacco Growers' Coop, 276 U.S. 71 (1927) 14

Occidental Oil Shale, Inc. v. State Board of Land Commissioners, 692 P.2d 321 (Colo. 1984) 5, 6, 11

Sunray Mid-Continent Oil Company v. State, 149 Colo. 159, 368 P.2d 563 (1962) 1

Wyoming v. United States, 255 U.S. 489 (1921) 12

Constitutional Provisions, Statutes and Rules

43 U.S.C. sec. 851, 852 (1982) 3, 11

44 Stat. 1026 (1927) 7

Colorado Constitution, art. IX, sec. 10 ..... 1, 8

Colorado Enabling Act, 18 Stat. 474 (1875) 1, 3, 7

Colo. Rev. Stat. 36-1-101 to 148 (1979) 1, 2

Colorado Mineral Location Statute, Colo. Rev. Stat. 36-1-140 (1979) ..... *passim*

Pub. L. 85-771, sec. 2, 72 Stat. 928 (1958) 7

STATEMENT OF THE CASE

This case involves the status, under state law, of certain lands which were selected by the respondents, State Board of Land Commissioners of Colorado (Colorado Land Board), as indemnity for lands which were not granted to the state at the time of entry into the Union, but to which the state was entitled. The Colorado Supreme Court held that these lands did not belong to the state for purposes of the Colorado Mineral Location Statute. Colo. Rev. Stat. 36-1-140 (1979).

At the time of statehood, the United States Congress granted certain lands to the State of Colorado for various public purposes. Colorado Enabling Act, sec. 7-10, 18 Stat. 474 (1875). See Appendix 1. Pursuant to the Colorado Constitution, art. IX, sec. 10, the lands which were granted to the state by the federal government at the time of statehood are to be held in trust by the Colorado Land Board which must maximize revenue therefrom for the benefit of the respective objects for which the grants of lands were made. See Appendix 2. These trust lands are subject to exclusive disposition by the Colorado Land Board on terms it deems just and proper in order to fulfill its constitutional mandate to maximize revenue. *Evans v. Simpson*, 190 Colo. 426, 547 P.2d 931 (1976); *Sunray Mid-Continent Oil Company v. State*, 149 Colo. 159, 368 P.2d 563 (1962).

The broad authority which was granted to the Colorado Land Board by the Colorado Constitution is further defined by state statute. Colo. Rev. Stat. 36-1-101 to 148 (1979). See Appendix 3. In order to maximize revenue, the Colorado Land Board is specifically authorized to lease surface rights (sec. 116, 118, 120), to lease mineral

rights (sec. 113, 115, 139), to issue rights-of-way (sec. 136), and to sell surface rights (sec. 122, 124, 137). When particularly valuable mineral lands are being considered for development, the Colorado Land Board issues mineral leases through competitive bidding. Often, bonus payments are required for the award of the lease. See Appendix 4.

In 1979, the petitioner, Occidental Oil Shale, Inc. (Occidental), attempted to circumvent the usual mineral leasing practices of the Colorado Land Board by submitting an application for a permit to explore for oil shale pursuant to the Colorado Mineral Location Statute. At the time Occidental submitted its application, this statute stated:

> 36-1-140. *Mineral locations-posting-lease.* Location of mineral claims *may be made upon unleased mineral lands belonging to the state.* The discoverer of a body of mineral in either a lead, lode, ledge, deposit, vein, or contact shall immediately post conspiciously a notice declaring that he has made such a discovery on the date attached to the notice. Within ten days after posting said notice, the discoverer must notify the state board of land commissioners of said discovery and arrange for a permit to explore the extent of the discovery. Within sixty days from date of discovery, the locator shall be required to take a lease upon such terms as may be agreed upon by the state board of land commissioners or apply for an extension of the permit.

(Emphasis added.) In 1980, this statute was amended to expressly delete coal and oil shale from its terms.

In order to obtain an exploration permit under section 140, several requirements must be met. The lands involved must be unleased and they must belong to the

state. The applicant must establish that there has been a discovery of a body of mineral, that a notice of discovery has been conspiciously posted, and that the Colorado Land Board has been notified within 10 days of the date of posting of the notice. Since the Colorado Land Board determined that the lands for which Occidental sought an exploration permit were not lands "belonging to the state" under section 140, the Colorado Land Board declined to consider Occidental's application and declined to determine whether Occidental had complied with the remaining statutory requirements. See Petition, Appendix E.

In 1979, the lands for which Occidental sought an exploration permit were under the jurisdiction and control of the federal government, as those lands are today. Nevertheless, Occidental claimed that those lands belonged to the state for purposes of the Colorado Mineral Location Statute since the Colorado Land Board had filed a selection list with the Bureau of Land Management, United States Department of the Interior (BLM), for certain "indemnity" lands, including the subject lands.

Pursuant to federal statute, a state may select lands as indemnity for lands which were intended to be granted, but which did not pass, to the state at the time of statehood. 43 U.S.C. sec. 851, 852 (1982). Colorado, like other western states, received lands from the federal government on entry into the Union. In Colorado's case, the federal government granted sections 16 and 36 of each township to be managed for the support of the public schools. Colorado Enabling Act, sec. 7. Since the lands granted to Colorado at statehood did not pass until they were identified by survey, which survey was not com-

pleted until long after statehood, many acres had been otherwise disposed of in the intervening years before survey. In addition, by virtue of the earth's curvature, surveying often revealed that certain of the granted sections were only partial or did not exist at all. As indemnity for the lands which never passed to the state, Colorado has the right to select lands in lieu of the granted sections (base lands). However, both Occidental and the Colorado Land Board agree that title to these indemnity lands does not pass to the state until the Secretary of the Interior approves the selection and clearlists the lands. See Petition, p. 9.

By letter dated January 27, 1978, the Colorado Land Board was advised that the BLM had identified several acres of unsatisfied indemnity lands which had been determined by actual survey or by protraction. See Appendix 5. Ultimately, the BLM determined that Colorado was entitled to indemnity for 11,482.31 acres. On September 4, 1979, the Colorado Land Board filed a selection list with BLM for 6,840 acres of indemnity land which the state had determined contained valuable oil shale deposits. See Appendix 6. Twenty days after the Colorado Land Board filed its selection list, Occidental claimed it had discovered oil shale on the selected lands and requested an exploration permit. The Colorado Land Board denied Occidental's request, since the selected lands had not been clearlisted by the Secretary of the Interior. See Petition, Appendix E. Although it has been 6 years since the selection list was filed, BLM has not taken final action yet on Colorado's indemnity selection.

Occidental sought judicial review in Denver District Court of the Colorado Land Board's denial of the request

for an exploration permit. See Petition, Appendices C and D. The decision of that court was appealed to the Colorado Supreme Court. See Petition, Appendix A. Based upon the language of the Colorado Mineral Location Statute, the Colorado Supreme Court upheld the Colorado Land Board's decision.

> When Occidental submitted its application for an exploration permit, section 36-1-140 provided that "location of mineral claims may be made on unleased mineral lands belonging to the state." We conclude that the selected lands were not "lands belonging to the state" at the time Occidental made is alleged discovery.

Occidental Oil Shale, Inc. v. State Board of Land Commissioners, 692 P.2d 321, 323 (Colo. 1984). From this decision by the Colorado Supreme Court, which affirms the Colorado Land Board's interpretation of a Colorado statute, Occidental seeks review by this Court.

SUMMARY OF THE ARGUMENT

In this case, Occidental attempts to obtain review of the Colorado Supreme Court's decision in *Occidental Oil Shale, Inc. v. State Board of Land Commissioners, supra.* Occidental claims that review by this Court is necessary by improperly asserting that a federal question is raised by the holding of the Colorado Supreme Court. Occidental's assertions are based upon a constrained reading of the Colorado Supreme Court's decision. That decision does not involve a federal question, but rather a state court review of a state agency's interpretation of a state

statute. Furthermore, even if a federal question were involved, Occidental may not properly raise it. Accordingly, the Colorado Land Board respectfully submits that this case is not proper for review by this Court.

ARGUMENT

I.

The Petition For Writ Of Certiorari Should Be Denied, Since The Only Issue Presented Is Whether The Colorado Supreme Court Properly Construed A Colorado Statute Which Does Not Raise A Significant Federal Question.

In the opinion rendered below, the Colorado Supreme Court framed only one issue. The sole question for its determination was whether certain lands, which the Colorado Land Board had selected as indemnity lands but which had not been clearlisted, were "lands belonging to the state" under the Colorado Mineral Location Statute. Colo. Rev. Stat. 36-1-140 (1979). The Colorado Supreme Court held:

> In summary, we hold that the lands in question did not belong to the state upon selection and that Occidental could not locate mineral claims on these lands pursuant to section 36-1-140 for this reason. Thus, the board's decision to deny Occidental an exploration permit was proper.

Occidental Oil Shale, Inc., 692 P.2d at 325. The Colorado Supreme Court's interpretation of state law was proper and should not be reviewed by this Court.

A. The Colorado Supreme Court properly determined, under state law, that Occidental was not entitled to a permit to explore for oil shale on selected indemnity lands.

In the case below, the Colorado Land Board advanced several arguments, based on state law, in support of its position that selected indemnity lands are not "lands belonging to the state" under the Colorado Mineral Location Statute. There are adequate and independent nonfederal grounds for the Colorado Supreme Court's decision which should not be disturbed by this Court. *Black v. Cutter Laboratories*, 351 U.S. 292, 297-98 (1955); *Herb v. Pitcairn*, 324 U.S. 117, 125-26 (1944).

At the time the Colorado Mineral Location Statute (section 140) was passed, the phrase "lands belonging to the state" was clearly not intended to include selected indemnity lands. Section 140 was initially adopted in 1919 at a time when much of Colorado's mineral wealth was unknown, when Colorado's territory was largely unsurveyed and when Colorado could not choose mineral lands in exercising its indemnity selections. The original grant of land to Colorado did not include mineral lands. Colorado Enabling Act, sec. 15. Similarly, the initial federal selection statutes precluded states from selecting indemnity lands known to be mineral in character. However, in 1927, Congress enacted legislation which permitted states to take title to minerals underlying numbered school sections, the result of which was to produce mineral base lands. 44 Stat. 1026 (1927). Then, in 1958, states were given the right to select mineral indemnity lands in lieu of lost base lands proven to be mineral in character. Pub. L. 85-771, sec. 2, 72 Stat. 928 (1958). Thus, without

question, section 140 could not have been intended to apply to selected mineral indemnity lands, since Colorado did not have authority to select such lands until almost 40 years after section 140 was passed.

In addition, the exclusion of indemnity lands from the operation of section 140 is consistent with the Colorado Land Board's constitutional duty to maximize revenue. Under the terms of section 140, a prospector claiming discovery of valuable minerals on lands belonging to the state may, upon compliance with certain specified procedures, reveive a 60-day permit from the Colorado Land Board to explore the claim. Subsequently a preferential lease may be negotiated with the Colorado Land Board to develop the located minerals. The ability to obtain a preferential lease from the Colorado Land Board under section 140 is in striking contrast to the Colorado Land Board's normal leasing procedures. Mineral lands which are known to contain particularly valuable deposits are ordinarily leased by competitive bid. See Appendix 4. In this way, the Colorado Land Board best fulfills its constitutional duty to administer the state's trust lands to produce maximum revenue for support of the public schools. Colo. Const. art. IX, sec. 10. Section 140 must be construed narrowly so that the Colorado Land Board's constitutional duty to maximize revenue will not be impeded.

Also, by its terms, section 140 demonstrates a certain immediacy which will not be served by including indemnity lands. This section applies solely to discoveries of a body of mineral in a lead, lode, ledge, deposit, vein or contact on unleased mineral lands belonging to the state. Only if conspicious notice of the discovery, includ-

ing the date thereof, is immediately posted, and the Colorado Land Board is notified within 10 days of the discovery, is there a right to arrange for a permit to explore further. The permit expires after 60 days at which time a permit extension must be requested or a lease must be negotiated with the Colorado Land Board.

In the instant case, it has been almost 6 years since the Colorado Land Board selected the indemnity lands on which Occidental allegedly discovered oil shale. It is uncertain whether a clearlist to these lands will ever issue. Nevertheless, Occidental claims that it should be entitled to an exploration permit and to negotiate a future preferential lease, if and when the selected lands do vest in the state, regardless of the desirability or suitability of the Colorado Land Board's issuing a mineral lease at that time. It is clear that the Colorado Mineral Location Statute was never intended to operate in such a manner.

The foregoing establishes that, purely on the basis of state law, it was proper for the Colorado Supreme Court to determine that selected indemnity lands were not "lands belonging to the state" under the Colorado Mineral Location Statute. Therefore, even if the Colorado Supreme Court incorrectly interpreted federal law as Occidental maintains, and this Court were to correct that interpretation, the same judgment could be issued by the Colorado Supreme Court. This Court's opinion would then be nothing more than an advisory opinion, which this Court has stated it is not entitled to render. *Herb v. Pitcairn*, 324 U.S. at 126. Accordingly, this Court should decline to review the Colorado Supreme Court's decision.

B. The Colorado Supreme Court's decision upholding the Colorado Land Board's interpretation of a state statute does not raise a significant federal question.

In support of its position, Occidental argues that this case presents significant federal questions regarding the nature of Colorado's interest in the lands selected under the indemnity statutes. Occidental claims that the Colorado Supreme Court, based upon a misinterpretation of *Andrus v. Utah*, 446 U.S. 500 (1980), indirectly repealed the indemnity land statutes, incorrectly concluded that equitable title did not vest upon selection, and "mechanically" applied the grossly disparate value test improperly. See Petition, pp. 7, 12, 13, 15. Occidental devotes its entire petition to this improper characterization of the issues. The Colorado Supreme Court did not indirectly repeal the indemnity land statutes, it did not hold that equitable title does not vest upon selection, and it did not even apply a grossly disparate value test much less apply this test improperly since final action has not been taken on Colorado's selection list. The only issue considered and decided by the Colorado Supreme Court was whether Occidental was entitled to an exploration permit under the Colorado Mineral Location Statute.

In this case, the Colorado Supreme Court concluded that Occidental was not entitled to a permit to explore for oil shale on indemnity lands which had been selected by the Colorado Land Board, but not yet clearlisted by the Secretary of the Interior, since those lands were not "lands belonging to the state" for purposes of the Colorado Mineral Location Statute. In the course of its decision, the Colorado Supreme Court addressed this Court's

holding in *Andrus* which affirmed the Secretary of the Interior's broad discretion regarding the approval or disapproval of selection lists. In the proper exercise of the Secretary's discretion, the Colorado Supreme Court noted that a state's indemnity selection could be denied.

> Even assuming that a state selection of land satisfies all of the criteria for a proper selection of indemnity lands as detailed in 43 U.S.C. secs. 851-852, the Secretary of the Interior in the proper exercise of his discretion can withhold the lands from classification as indemnity lands and deny the selection.

Occidental Oil Shale Inc., 692 P.2d 324. *Accord Justheim v. Division of State Lands*, 659 P.2d 1075 (Utah 1983). Occidental does not disagree with the Colorado Supreme Court's conclusion regarding the Secretary of the Interior's discretion, but Occidental contends that the Colorado Supreme Court impermissibly extended this conclusion to hold that equitable title no longer vests upon selection. The Colorado Supreme Court did not enter such a holding and, although Occidental would have this Court believe otherwise, the court was not requested to do so by the Colorado Land Board.

Throughout this case, the Colorado Land Board has maintained that it obtained an equitable interest in the selected lands upon the filing of its selection list. It is the position of the Colorado Land Board that, pending the Secretary of the Interior's decision to classify withdrawn lands as available for selection and the determination to clearlist the lands, the federal government cannot sell or otherwise divest itself of the selected land to a third party. The Colorado Land Board's position is consistent with BLM's position on this issue. The filing of

a selection list has been deemed by the BLM to have a "segregative effect" pending classification and clearlisting. "The filing of a state indemnity selection immediately segregates the public land selected from all forms of appropriation under the Public Lands Law." Bureau of Land Management, Instruction Memorandum No. 82-33. See Petition, Appendix G, p. 32a. Thus, a state obtains equitable interests in selected indemnity lands.

The Colorado Land Board's position regarding the nature of a state's equitable interest in selected lands also is supported by decisions of this Court. In *Wyoming v. United States,* 255 U.S. 489, 501 (1921), this Court ruled that the federal government holds selected lands in trust for a state until a final decision is made regarding the classification and clearlisting of those lands, thus creating equitable interests in the selected lands. Occidental agrees that this Court's holding in *Wyoming* was not altered by *Andrus.* See Petition, p. 8. The *Wyoming* decision also was not altered by the Colorado Supreme Court in this case.

In *Andrus,* the Secretary of the Interior had denied Utah's selection of certain lands on the basis that, though equal in acreage to the base lands, the selected lands were so unequal in value that the Secretary of the Interior could reject the selection (disparate value test). Utah appealed the Secretary of the Interior's decision. Due to certain legislative and executive actions, this Court held that the Secretary of the Interior had broad discretion concerning the classification of lands as open and available for selection and that the Secretary of the Interior could reject a selection on the basis of grossly disparate values between the indemnity and the base lands. This Court did not render an opinion, however, regarding the nature of the

state's equitable interest in selected lands. Similarly, in the present case, the Colorado Supreme Court did not issue a decision regarding the state's equitable interest in selected lands.

By contrast with *Andrus,* the case below was not brought against the federal government and did not arise in the context of the Secretary of the Interior's rejection of a Colorado indemnity land selection. In fact, the Secretary of the Interior has not taken final action with respect to Colorado's selection and there is no issue in this case regarding the propriety of Colorado's selection. Neither the procedural requirements, the nature of the granted lands, nor the value of the selected lands are at issue here. This case does not present issues relating to the proper interpretation of federal selection statutes as did *Andrus.* Instead, this case involves a dispute between a private corporation and a state over whether the state must grant an exploration permit and enter into a preferential lease with that corporation, or whether the state can wait until the Secretary of the Interior clearlists the land after which time, if and when appropriate, the state may lease the land in a manner designed to maximize revenue.

The Colorado Supreme Court's decision does not operate tc deprive a state of its equitable interest in selected indemnity lands since the Colorado Supreme Court never reached that issue. The only issue determined by the Colorado Supreme Court was that, whatever the state's interest in selected lands may be, that interest is not sufficient to qualify those lands as "belonging to the state" for purposes of the Colorado Mineral Location Statute. Therefore, a significant federal question has not been raised by this case.

II.

The Petition For Writ Of Certiorari Should Be Denied Since Occidental Has Not Claimed A Deprivation Of Its Federally Protected Rights And Since It Cannot Demonstrate That It Would Be Benefited By Review By This Court.

Occidental maintains that the Colorado Supreme Court's concise and clear opinion must be vacated to prevent injury to all public land states with selections remaining to be made. See Petition, pp. 8, 15, 16. Occidental is not entitled to review on those grounds.

A party seeking review of a state court decision "must show that enforcement of the challenged judgment would deprive it—not another—of some right arising under the Constitution or the laws of the United States properly asserted below." *Liberty Warehouse Co. v. Burley Tobacco Growers' Coop,* 276 U.S. 71, 88 (1927); 28 U.S.C. sec. 1257(3). Neither in its petition before this Court nor before the Colorado Supreme Court, did Occidental claim a deprivation of any federally protected rights it may have. The entire basis of Occidental's petition is that the rights of states have been adversely affected by the Colorado Supreme Court's decision. Certainly Occidental, a private corporation, does not represent the citizens of the public land states who are allegedly injured by the Colorado Supreme Court's decision. The Colorado Land Board submits that Occidental has framed issues concerning a state's equitable interests in selected lands which issues only involve Occidental's pecuniary interests but which do not involve Occidental's federally protected rights. Thus, Occidental is not entitled to obtain review from this Court.

Furthermore, even if this Court were to review and vacate the Colorado Supreme Court's decision, Occidental would not necessarily benefit thereby since it may never be entitled to negotiate a preferential lease with the Colorado Land Board. No determination has ever been made as to whether Occidental has complied with all of the requirements of the Colorado Mineral Location Statute. See Petition, Appendix E, p. 17a. Such compliance will be difficult to establish. Since the Colorado Land Board selected the lands at issue for their known oil shale deposits, it may be impossible for Occidental to demonstrate that it "discovered" oil shale on this property. Thus, even if the Colorado Supreme Court's decision were vacated by this Court, no meaningful benefit may flow to Occidental due to the tenuous nature of Occidental's rights, if any under the Colorado Mineral Location Statute. Accordingly, the petition for writ of certiorari should not be granted. *See Bateman v. Arizona,* 429 U.S. 1302 (1976).

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CONCLUSION

For the foregoing reasons, the Colorado Land Board respectfully requests that the petition for writ of certiorari be denied.

DATED this 18 day of June, 1985.

Respectfully submitted,

DUANE WOODARD
Attorney General

CHARLES B. HOWE
Chief Deputy Attorney General

RICHARD H. FORMAN
Solicitor General

JANET L. MILLER
Deputy Attorney General
Natural Resources Section

Attorneys for Respondents

1525 Sherman Street, 3d Floor
Denver, Colorado 80203
Telephone: (303) 866-3611

APPENDIX 1

ENABLING ACT

AN ACT TO ENABLE THE PEOPLE OF COLORADO TO FORM A CONSTITUTION AND STATE GOVERNMENT, AND FOR THE ADMISSION OF THE SAID STATE INTO THE UNION ON AN EQUAL FOOTING WITH THE ORIGINAL STATES.

Be it enacted by the senate and house of representatives of the United States of America in congress assembled:

§ 1. *Authority to form state.* That the inhabitants of the territory of Colorado included in the boundaries hereinafter designated, be, and they are hereby authorized to form for themselves, out of said territory, a state government, with the name of the state of Colorado; which state, when formed, shall be admitted into the Union upon an equal footing with the original states in all respects whatsoever, as hereinafter provided.

§ 2. *Boundaries.* That the said state of Colorado shall consist of all the territory included within the following boundaries, to-wit: commencing on the thirty-seventh parallel of north latitude where the twenty-fifth meridian of longitude west from Washington crosses the same; thence north, on same meridian, to the forty-first parallel of north latitude; thence along said parallel west to the thirty-second meridian of longitude west from Washington; thence south on said meridian, to the thirty-seventh parallel of north latitude; thence along said thirty-seventh parallel of north latitude to the place of beginning.

§ 3. *Convention - election - apportionment - proclamation.* That all persons qualified by law to vote for representatives to the general assembly of said territory, at the date of the passage of this act, shall be qualified to be elected, and they are hereby authorized to vote for and choose representatives to form a convention, under such rules and regulations as the governor of said territory, the chief justice, and the United States attorney thereof may prescribe; and also to vote upon the acceptance or rejection of such constitution as may be formed by said convention, under such rules and regulations as said convention may prescribe; and the aforesaid representatives to form the aforesaid convention shall be apportioned among the several counties in said territory in proportion to the vote polled in each of said counties at the last general election as near as may be; and said apportionment shall be made for said territory by the governor, United States district attorney, and chief justice thereof, or any two of them; and the governor of said territory shall, by proclamation, order an election of the representatives aforesaid, to be held throughout the territory at such time as shall be fixed by the governor, chief justice and United States attorney, or any two of them; which proclamation shall be issued within ninety days next after the first day of September, eighteen hundred and seventy-five, and at least thirty days prior to the time of said election; and such election shall be conducted in the same manner as is prescribed by the laws of said territory regulating elections therein, for members of the house of representatives; and the number of members to said convention shall be the same as now constitutes both branches of the legislature of the aforesaid territory.

§ 4. *Constitutional convention - requirements of constitution.* That the members of the convention thus elected shall meet at the capital of said territory, on a day to be fixed by said governor, chief justice, and United States attorney, not more than sixty days subsequent to the day of election, which time of meeting shall be contained in the aforesaid proclamation mentioned in the third section of this act, and after organization, shall declare, on behalf of the people of said territory, that they adopt the constitution of the United States; whereupon the said convention shall be and is hereby authorized to form a constitution and state government for said territory; provided, that the constitution shall be republican in form, and make no distinction in civil or political rights on account of race or color, except Indians not taxed, and not be repugnant to the constitution of the United States and the principles of the declaration of independence; and, provided further, that said convention shall provide by an ordinance irrevocable without the consent of the United States and the people of said state; first, that perfect toleration of religious sentiment shall be secured, and no inhabitant of said state shall ever be molested in person or property, on account of his or her mode of religious worship; secondly, that the people inhabiting said territory do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within said territory, and that the same shall be and remain at the sole and entire disposition of the United States; and that the lands belonging to citizens of the United States residing without said state shall never be taxed higher than the lands belonging to residents thereof, and that no taxes shall be imposed by the state on lands

or property therein belonging to, or which may hereafter be purchased by the United States.

§ 5. *Adoption of constitution - president to proclaim.* That in case the constitution and state government shall be formed for the people of said territory of Colorado, in compliance with the provisions of this act, said convention forming the same shall provide by ordinance for submitting said constitution to the people of said state for their ratification or rejection, at an election to be held at such time, in the month of July, eighteen hundred and seventy-six, and at such places and under such regulations as may be prescribed by said convention, at which election the lawful voters of said new state shall vote directly for or against the proposed constitution; and the returns of said election shall be made to the acting governor of the territory, who, with the chief justice and United States attorney of said territory, or any two of them, shall canvass the same; and if a majority of the legal votes shall be cast for said constitution in said proposed state, the said acting governor shall certify the same to the president of the United States, together with a copy of said constitution and ordinances, whereupon it shall be the duty of the president of the United States to issue his proclamation declaring the state admitted into the Union on an equal footing with the original states, without any further action whatever on the part of Congress.

§ 6. *One representative - officers - election.* That until the next general census said state shall be entitled to one representative in the house of representatives of the United States, which representative, together with the governor and state and other officers provided for in said

constitution, shall be elected on a day subsequent to the adoption of the constitution, and to be fixed by said constitutional convention; and until said state officers are elected and qualified under the provisions of the constitution, the territorial officers shall continue to discharge the duties of their respective offices.

§ 7. *School lands.* The sections numbered sixteen and thirty-six in every township, and where such sections have been sold or otherwise disposed of by any act of congress, other lands equivalent thereto in legal sub-divisions of not more than one quarter-section, and as contiguous as may be, are hereby granted to said state for the support of common schools.

§ 8. *Land for public buildings.* That, provided the state of Colorado shall be admitted into the Union in accordance with the foregoing provisions of this act, fifty entire sections of the unappropriated public lands within said state, to be selected and located by direction of the legislature thereof, and with the approval of the president, on or before the first day of January, eighteen hundred and seventy-eight, shall be and are hereby granted, in legal sub-divisions of not less than one quarter-section, to said state for the purpose of erecting public buildings at the capital of said state, for legislative and judicial purposes, in such manner as the legislature shall prescribe.

§ 9. *Land for penitentiary.* That fifty other entire sections of land as aforesaid, to be selected and located and with the approval as aforesaid, in legal sub-divisions as aforesaid, shall be, and they are hereby granted, to said state for the purpose of erecting a suitable building for a penitentiary or state prison in the manner aforesaid.

§ 10. *Land for university.* That seventy-two other sections of land shall be set apart and reserved for the use and support of a state university, to be selected and approved in manner as aforesaid, and to be appropriated and applied as the legislature of said state may prescribe for the purpose named and for no other purpose.

§ 11. *Salt Springs.* That all salt springs within said state not exceeding twelve in number, with six sections of land adjoining, and as contiguous as may be to each, shall be granted to said state for its use, the said land to be selected by the governor of said state within two years after the admission of the state, and when so selected to be used and disposed of on such terms, conditions and regulations as the legislature shall direct; provided, that no salt springs or lands, the right whereof is now vested in any individual or individuals, or which hereafter shall be confirmed or adjudged to any individual or individuals, shall by this act be granted to said state.

§ 12. *Sale of agricultural lands.* That five per centum of the proceeds of the sales of agricultural public lands lying within said state, which shall be sold by the United States subsequent to the admission of said state into the Union, after deducting all the expenses incident to the same, shall be paid to the said state for the purpose of making such internal improvements within said state as the legislature thereof may direct; provided, that this section shall not apply to any lands disposed of under the homestead laws of the United States, or to any lands now or hereafter reserved for public or other uses.

§ 13. *Unexpended balance of appropriations.* That any balance of the appropriations for the legislative ex-

penses of said territory of Colorado remaining unexpended, shall be applied to and used for defraying the expenses of said convention, and for the payment of the members thereof, under the same rules and regulations and rates as are now provided by law for the payment of the territorial legislature.

§ 14. *School lands - how sold.* That the two sections of land in each township herein granted for the support of common schools shall be disposed of only at public sale and at a price not less than two dollars and fifty cents per acre, the proceeds to constitute a permanent school fund, the interest of which to be expended in the support of common schools.

§ 15. *Mineral lands excepted.* That all mineral lands shall be excepted from the operation and grants of this act.

APPENDIX 2

Section 9. *State board of land commissioners.* The state board of land commissioners shall be composed of three (3) persons to be appointed by the governor, with the consent of the senate, who shall have the direction, control and disposition of the public lands of the state under such regulations as are and may be prescribed by law, one of which persons shall at the time of his appointment be designated as president of the board and whose office shall expire on the second Tuesday of January, 1917, one of which persons shall at the time of his appointment be designated as register of the board and whose term of office shall expire on the second Tuesday of January, 1915, and the third member of said board shall at the time of his appointment be designated as the engineer of the board and shall always be professionally a civil engineer, who, for at least five (5) years, has been actively engaged in the practice of his profession and whose term of office shall expire on the second Tuesday of January, 1913; and the successor and successors of the first members of the board shall each be appointed for the terms of six (6) years.

On the adoption of this amendment by the electors of this state, it shall not go into full force and effect until the second Tuesday of January, 1911.

The members of the board shall each receive a salary of three thousand dollars ($3,000) per annum until otherwise provided by law; but the salary of each member of this board is to be paid out of the income of the said state board of land commissioners.

Section 10. *Selection and control of public lands.* It shall be the duty of the state board of land commissioners to provide for the location, protection, sale or other disposition of all the lands heretofore, or which may hereafter be granted to the state by the general government, under such regulations as may be prescribed by law; and in such manner as will secure the maximum possible amount therefor. No law shall ever be passed by the general assembly granting any privileges to persons who may have settled upon any such public lands subsequent to the survey thereof by the general government, by which the amount to be derived by the sale, or other disposition of such lands, shall be diminished, directly or indirectly. The general assembly shall, at the earliest practicable period, provide by law that the several grants of land made by congress to the state shall be judiciously located and carefully preserved and held in trust subject to disposal, for the use and benefit of the respective objects for which said grants of land were made, and the general assembly shall provide for the sale of said lands from time to time; and for the faithful application of the proceeds thereof in accordance with the terms of said grants.

APPENDIX 3

36-1-101. *Record of proceedings.* The state board of land commissioners shall keep a complete record of its proceedings in a suitable book and shall preserve all important papers and documents pertaining to the state lands.

36-1-101.5. *Appointment of members.* The state board of land commissioners shall be composed of three members appointed by the governor, with the consent of the senate, who shall have the direction, control, and disposition of the public lands of the state. One of such members shall, at the time of his appointment, be designated as president of the board; one of such members shall, at the time of his appointment, be designated as register of the board; and the third member of said board shall, at the time of his appointment, be designated as the engineer of the board and shall always be professionally a civil engineer who, for at least five years, has been actively engaged in the practice of his profession. Successors to the present members of the board shall each be appointed for a term of six years. Not more than two members of the board may be of one major political party, and the third member shall be a member of the other major political party.

36-1-102. *Employees-register-hearings-bonds-report.* (1) The state board of land commissions is authorized to employ, pursuant to section 13 of article XII of the state constitution, an office force. It is the duty of the register to keep the records of the state board of land commissioners; to make out and countersign all patents and leases issued by the board to purchasers and lessees of state

lands, and keep a suitable record of the same; to file and preserve bonds of lessees and those given by purchasers to secure deferred payments; to make and deliver to purchasers a suitable certificate of purchase; to have the custody of the seal of the state board of land commissioners; to keep the minutes of the board; to receive all moneys from the deputy register collected by such officer on account of the state board of land commissioners, and to pay them over to the state treasurer, as prescribed by law, and in the absence of the deputy register to receipt for and receive all moneys payable to the state board of land commissioners; and to perform such other duties concerning the land affairs of the state as the said board may direct.

(2) It is also the duty of the register in all contested cases, at the direction of the board, when hearings are necessary and witnesses may be required to be examined, to set a date for hearing such cases. The register shall duly advise the contestants and their accredited attorneys of the date set for such hearings, and on the date appointed the register is empowered to administer oaths and to hear and receive evidence in the manner and procedure established by the United States in the district land offices, or in accordance with the rules that are adopted by the board governing such cases. All evidence given and provided in such cases before the register shall be fully transcribed and arranged at the cost of the parties to the contest, and shall form a part of the records of the office of the state board of land commissioners. The register shall, as soon as convenient after such hearings, present a full transcript of the proceedings to the

state board of land commissioners, which shall render a decision in accordance therewith.

(3) The board shall be provided with a suitable office and office furniture by the office of state planning and budgeting.

(4) The board shall publish each year, subject to the approval and control of the executive director of the department of natural resources, a summary of the transactions of the state board of land commissioners, and the land affairs of the state, showing, by tables, the land belonging to the several funds of the state, to whom sold, the amount leased, the receipts from all sources, and shall contain any such other items or information concerning state lands as the state board of land commissioners or the executive director of the department of natural resources may deem worthy of publication.

(5) Before assuming the duties of his office, each member of the state board of land commissioners shall give a surety bond, the expense of which shall be paid from the operating funds of the state board of land commissioners in the sum of thirty thousand dollars, conditional upon the faithful discharge of his duties, which bond shall be approved by the governor and state treasurer and filed with the secretary of state.

(6) The board shall report annually to the executive director of the department of natural resources at such time and on such matters as the executive director may require. Publications of the board circulated in quantity outside the department shall be subject to the approval and control of the executive director.

36-1-103. *Deputy register-duties-bond.* It is the duty of the deputy register to receipt and account for all moneys payable to the state board of land commissioners, and the deputy register shall pay the same over to the register daily. The deputy register shall give a good and sufficient surety bond, the cost of which shall be paid by the state, to be approved by the state board of land commissioners, for the faithful performance of the duties pertaining to that position, in the amount of thirty thousand dollars. The deputy register shall perform such other duties as may be prescribed by the state board of land commissioners.

36-1-104. *Deed-execution-copy of record.* (1) The governor is authorized, and, in case of his absence or inability, the lieutenant governor is authorized to execute a good and sufficient deed or patent of conveyances, transferring any lands which may be ordered sold, or which shall be sold and disposed of by the state board of land commissioners under the statutes of this state. Such deed or patent shall be attested by the secretary of state, countersigned by the register, and have the great seal of the state and the seal of the state board of land commissioners thereto attached, but need not be acknowledged. A certified copy of the record of any such deed or patent shall be receivable in evidence in all courts of record in this state, the same as the original.

(2) Where such deed or patent may be issued pursuant to this section, to a person who has died before the date of such deed or patent, the title to the land designated therein shall inure to and become vested in the heirs, devisees, or assignees of such deceased grantee or

patentee as if the deed or patent had issued to the deceased person during life.

36-1-105. *Selection and location of lands.* It is the duty of the state board of land commissioners to select and locate all lands which are on or after March 31, 1919, granted to this state by the general government, for any purpose whatever, and the board shall take the necessary steps to secure the approval of such selections by the proper officers of the general government. In making such selections, the board may employ such agents and means as may be necessary to acquaint the board with the character of the lands selected; and the board may provide to have the lands belonging to the state classified and appraised.

36-1-106. *Appraisers' reports.* Appraisers shall make stated written reports of their work to the state board of land commissioners and such special reports as may be required from time to time. Such reports shall be made upon suitable uniform blanks to be provided by the board for such purpose wherein shall be set forth the legal description, general character and adaptability and estimated value of each of the several pieces, parcels, or tracts of land embraced in any such report, together with such other useful information as may be required by the board.

36-1-107. *Resolution of selection.* The state board of land commissioners from time to time shall make selection and location of the lands to which the state is entitled under the several grants of land from congress by including in its minutes a proper resolution, particularly designating all such pieces, parcels, or tracts of land so selected and located, and thereupon from time to time

said board shall promptly take all necessary and proper steps to effectually secure the approval thereof by the proper officers of the general government.

36-1-108. *Appraisal-classification-plat.* Immediately after the selection of said indemnity land is completed, the state board of land commissioners shall begin a general appraisal of all lands owned by the state. The board shall provide proper books for such purpose wherein shall be set forth the legal description, general character and adaptability and appraised valuation of each of the several pieces, parcels, or tracts of lands so classified and appraised, together with such other useful information as the board shall deem necessary. The board also from time to time shall provide proper plats showing all such lands so classified and appraised.

36-1-109. *Reclassification.* The state board of land commissioners has the power from time to time to reclassify and reappraise any lands owned by the state and shall make the same record thereof as provided by this article for the original classification and appraisal of such lands and shall make the necessary notations or changes on its existing records.

36-1-110. *Books and plats-public records.* All books and plats required by this article to be provided and kept by the state board of land commissioners shall be a part of the public records of said board and shall be open to inspection.

36-1-111. *Land appraisers.* The state board of land commissioners shall appoint, pursuant to section 13 of article XII of the state constitution, such appraisers of state lands as are necessary. The appraisers shall be un-

der the direction of the state board of land commissioners. There shall be appropriated a sufficient sum per annum for the purpose of defraying the expenses of the appraisers when visiting the different portions of the state in the discharge of their duties.

36-1-112. *Fees-disposition of fees.* (1) The state board of land commissioners is authorized to collect the fees fixed in this subsection (1) for the issuance of leases, patents, certificates of purchase, right-of-way documents, and recording assignments, for the making of township plats, for the filing of bonds, and for the filing of all documents necessary to be filed in the office, as follows:

(a) Filing application to lease for each one hundred sixty acres or fraction thereof ..... $ .75

(b) Filing application to purchase for each one hundred sixty acres or fraction thereof 1.00

(c) Accepting and approving bond 3.00

(d) Issuing lease, each one hundred sixty acres or fraction thereof 2.00

(e) For each additional one hundred sixty acres or fraction thereof in the same lease ..... .75

(f) For issing patent or certificate of purchase, each one hundred sixty acres or fraction thereof 4.00

(g) Assignment recording fees:

(I) Mineral lease 25.00

(II) Surface lease 5.00

(III) Certificate of purchase 5.00

(h) Patent for town lot, one or more 5.00

(i) Right-of-way documents, easements, etc. 10.00

(j) For issuing permission to make improvements in excess of amount allowed by the terms of the lease 5.00

(k) Certified copies of any instrument or of the records shall be furnished at the rate of twenty-five cents per folio and two dollars for the certification.

(l) Each application for lease must be accompanied by a lease service fee of ten dollars, in addition to the filing fee.

(m) All applications for purchase must be accompanied by an appraisement fee of seventy-five dollars in addition to the filing fee.

(n) If the board orders a sale to be made, the applicant shall be required to pay an advertising fee of seventy-five dollars.

(o) All township plats shall be furnished at two dollars each.

(p) For subdividing mineral lands into lots of ten acres each for the purpose of leasing, upon application of any person, a deposit of twenty-five dollars for each lot shall be required.

(q) Filing fee for rights-of-way granted pursuant to section 36-1-136 .....75.00

(r) Timber sale applications if timber is at least one thousand dollars in value 25.00

(s) Timber permit applications if timber is less than one thousand dollars in value 15.00

(t) The successful purchaser shall be required to pay the actual cost of all legal advertising. If the applicant is not the successful purchaser he shall be reimbursed for the advertising fee paid.

(2) All moneys collected by the state board of land commissioners for fees collected as specified in subsection (1) of this section shall be deposited by the register of the state board of land commissioners with the state treasurer for credit as provided in section 36-1-148.

36-1-113. *Leases—rental—mineral lands.* (1) The state board of land commissioners may lease any portion of the land of the state at a rental to be determined by it, except as provided in sections 36-1-118 and 36-1-147. The lessee shall pay the annual rental to the state board of land commissioners, who shall receipt for the same in the lease. Upon receiving such annual rental, the board shall transmit the same to the state treasurer, as provided by law, and take his receipt therefor. If geothermal resources or stone, coal, oil, gas, or other minerals not mentioned in this section are found upon the state land, such land may be leased for the purpose of obtaining therefrom the geothermal resource or stone, coal, oil, gas, or other minerals, for such length of time and conditioned upon the payment to the board of such royalty upon the product as the state board of land commissioners may determine.

(2) All geothermal leases issued by the state board of land commissioners may be awarded as the result of negotiation or competitive bidding, but no such lease shall be executed until after at least thirty days' public notice that the award of a lease is contemplated.

36-1-114. *Adjustment of rentals.* The state board of land commissioners has the direction, control, and disposition of the public lands of the state as provided for in section 9 of article IX of the state constitution, and when, in its opinion conditions justify, has the power to adjust rentals under any existing, expired, or defaulted lease on state lands in a manner to secure the maximum possible revenue as provided for in section 10 of article IX of the state constitution, and may accept payments on delinquent rentals in accordance with such adjustments.

36-1-115. *Development of oil, gas, or geothermal resource areas.* The state board of land commissioners is authorized to join on behalf of the state in a cooperative or unit plan of development or operation for any oil, gas, or geothermal resource pool, field, or area, or for any part of any such pool, field, or area, with the United States government and its lessees or with others or with both such parties and, for that purpose, is authorized at or after the time of joining to modify and change any and all terms of the leases issued under the provisions of articles 1 to 8 of this title as mutually agreed by the lessor and lessee in any such lease, including the extension of the term of years otherwise applicable to any such lease for the full period of time such cooperative or unit plan may remain in effect, as required to conform with the terms of any such lease to such cooperative or unit plan and to facilitate the efficient and economic production of the oil, gas, or geothermal resource from the lands so affected. Any such cooperative or unit plan, including lands owned by the state, may, in the discretion of the state board of land commissioners, contain a provision whereby authority is vested in the secretary of the interior if lands of

the United States are also included or in any such person, committee, or state or federal officer or agency as may be designated in the plan to alter or modify from time to time the rate of prospecting and development and the quantity and rate of production under such plan.

36-1-116. *Disposition of rentals, royalties, and timber sale proceeds.* (1) (a) Proceeds received by the state for the sale of timber on public school lands; rental payments for the use and occupation of the surface of said lands; and rentals or lease payments for sand, gravel, clay, stone, coal, oil, gas, geothermal resources, gold, silver, or other minerals on said lands shall be credited to the public school income fund for distribution as provided by law.

(b) Royalties and other payments for the depletion or extraction of a natural resource on said lands shall be credited to the public school permanent fund.

(2) (a) Proceeds received by the state for the sale of timber on lands belonging to any of the state trust funds other than on public school lands; rental payments for the use and occupation of the surface of said lands; and rentals or lease payments for sand, gravel, clay, stone, coal, oil, gas, geothermal resources, gold, silver, or other minerals on said lands shall be credited to the proper trust income fund.

(b) Royalties and other payments for the depletion or extraction of a natural resource on said lands shall be credited to the proper permanent trust fund.

(3) This section is subject to the provisions of section 36-1-145.

36-1-117. *Leases, rentals payable in advance.* All leases of state or school lands shall be conditioned upon the payment of rent in advance, and the violation of this condition shall work a forfeiture of the lease, at the option of the state board of land commissioners, after thirty days' notice to the lessees. Notice shall be sent to the last known post office address of the lessee, as given by himself to the register of the state board of land commissioners.

36-1-118. *Terms of leasing—renewals—sale of leased land.* (1) (a) The public lands of the state may be leased by the state board of land commissioners in such manner and to such persons as will produce an optimum long-term revenue. No lease of such lands for grazing or agricultural purposes shall be for a longer period than ten years.

(b) In determining the maximum benefit to the state in the renewal of any expiring lease, the board shall consider, among other things, the care and use given the land and the development work done by the lessee in conserving and promoting the productivity thereof and in promoting optimum long-term revenue for school purposes, and the classification, location, and contribution to the unit controlled by the lessee.

(c) Before land is leased to anyone other than the present lessee, said present lessee shall be given ten days' notice and an opportunity during the ten days to negotiate with the state board of land commissioners concerning a new lease.

(2) Prior to the quarter period beginning April 1, 1955, and prior to each quarter period thereafter, the board shall make a listing of all grazing and other agri-

cultural leases which expire within the second succeeding quarter period thereafter, giving a description of the land leased, the name of the lessee, and the expiration date of the lease. At least five days prior to the beginning of each such quarter period, a copy of such listing shall be certified to and transmitted by the board to the county clerk and recorder of each county in which any such land to be leased is situate and shall, by said county clerk and recorder, immediately upon receipt thereof, be posted in the courthouse in a conspicuous place to which the public has access and kept so posted until all leases listed thereon have expired. A copy of such quarterly listing shall also be posted at the times above provided in the main office of the state board of land commissioners, available for public inspection.

(3) (a) All applications to lease or to renew a lease shall be made in writing to the board, stipulating the rental the applicant is willing to pay and under such other regulations, not in conflict with the law, as the board may prescribe.

(b) The board shall require from any applicant for a lease that he give evidence of his responsibility to carry out the terms of the lease. Any applicant, except the present lessee, shall deposit with his application a sum of money equal to the first annual rental offered in his application.

(c) The board shall also require that an applicant state under oath the total acreage of agricultural or grazing land, if any, owned and to be operated by him in connection with the land to be leased, and the intended use, during the term of the lease, of both such private land, if

any, and public land, either as to agricultural products to be produced thereon, or as to the carrying capacity of such lands in terms of the number of livestock such tracts are expected to reasonably support; and, if a renewal, a history, for such period of time as prescribed by the board, of the past use of both such private land, if any, and public land, as to agricultural products produced and the number of livestock grazed thereon.

(4) The board may, in its discretion, offer for sale any land leased at any time during the term of the lease as though said lease had not been executed, or it may withdraw such land from sale during the full term of the lease.

(5) The board has power to cancel and terminate any lease at any time if it finds that a lessee has violated any of the provisions of the lease or made any false statement in his application therefor.

(6) The board shall as soon as practicable, and not more than thirty days after the close of every quarter period, post, in the main office of the board, a complete listing of leases executed during that quarter period, together with rental figures for the same.

36-1-119. *Lessee to purchase improvements.* Should anyone apply to lease any of the lands belonging to the state upon which there are improvements belonging to another party, before a lease shall issue, he shall file in the office of the state board of land commissioners a receipt showing that the price of the improvements, as agreed upon by the parties or fixed by the state board, has been paid to the owner thereof in full or shall make

satisfactory proof that he has tendered to such owner the price of the improvements so agreed upon or fixed by the board. If, by any mistake or error, any money has been paid on account of any sale or lease of state lands, it is the duty of the board to draw a voucher in favor of the party paying said money. On presentation of the voucher, the controller shall draw his warrant upon the state treasurer for the amount, and the state treasurer shall pay the same out of the fund into which such money was deposited or placed. If, through any fraud, deceit, or misrepresentation, any party procures the issuing of any lease for state lands, the board has the authority to cancel any such lease.

36-1-120. *Leases—lands in city limits.* Lands within city boundaries may be leased for a term not exceeding fifty years. All such leased lands shall be reappraised and classified at least every five years, and the lessee of all such lands shall pay any increased rental or forfeit the land so held. When any lease expires by limitation the holder thereof may renew the same in the following manner: At any time within the ninety days next preceding the expiration of the lease, the lessee, or his assigns, shall notify the register of his desire to renew the lease. If the lessee and the state board of land commissioners agree as to the valuation of the land, a new lease may be issued, bearing even date with the expiration of the old one, and upon like conditions. The former valuation shall not be decreased without the consent of the state board of land commissioners. Nothing in this section shall prohibit the state board of land commissioners from leasing any of the state lands to such party who secures to the state the greatest annual revenue. The state board of land com-

missioners may, in its discretion, offer the land for sale at the end of any period of five years, upon the application of the lessee, during the term of the lease, upon the same terms and in the same manner as though the lease had not been executed.

36-1-121. *Trespass—penalty—bond.* (1) Any corporation, company, or person using or occupying any state or school lands without lease, and any corporation, company, or person who shall use or occupy state or school lands for more than thirty days after the cancellation or expiration of a lease, and any corporation, company, or person who constructs a reservoir, ditch, railroad, public highway, telegraph or telephone line, or in any manner occupies or enters upon lands belonging to the state, without first having secured the authority and permission of the state board of land commissioners to so occupy the land for such purpose, shall be regarded as trespassers and, upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, and each day shall be considered a separate offense.

(2) In each case, where a bond has been furnished to the state board of land commissioners, the bondsmen of the lessee shall be equally liable with himself, and, in addition to the foregoing penalty, the state shall be allowed to collect as rental for the use of such lands a sum equal to the appraised value thereof for rental purposes, as fixed by the state board of land commissioners, and which value shall not be less than five cents per acre per annum. All suits under the provisions of this article shall be instituted under the direction of the attorney general, in the name of the people of the state of Colorado.

36-1-122. *Platting and sale in lots and blocks.* The state board of land commissioners may cause any portion of the state or school lands to be laid out in lots and blocks or other tracts by a recorded plat to be sold from time to time at public auction in such quantities and at such times as shall enable the state to realize the best prices for such lands.

36-1-123. *Purchase of necessary land by U. S.* Any state lands needed by the United States for irrigation works, other than the right-of-way for roads, bridges, canals, ditches, tunnels, pipelines, and telephone and transmission lines, shall be sold to the United States at a price not less than three dollars and fifty cents per acre, and without advertising or offering the same at public auction, and the state board of land commissioners shall direct the governor, secretary of state, and register to execute and sign, as provided in this article, on behalf of the state, a proper deed or other instrument of writing for such lands.

36-1-124. *Sale of state lands.* (1) The state board of land commissioners may at any time direct the sale of any state lands, except as provided in this article, in such parcels as they shall deem for the best interest of the state and the promotion of the settlement thereof. No lands belonging to the state, within the areas to be irrigated from works constructed or controlled by the United States or its duly authorized agents, shall on or after March 31, 1919, be sold except in conformity with the classification of farm units by the United States. After the withdrawal of lands by the United States for any irrigation project, no application for the purchase of state lands within the limits of such withdrawal shall be ac-

cepted, except upon the conditions prescribed in this section. All sales under this article, except those to the United States, shall be advertised in four consecutive issues of some weekly paper of the county in which such land is situated, if there is such paper; if not, then in some paper published in an adjoining county, and in such other papers as the board may direct.

(2) The advertisement shall state the time, place, and terms of sale, and the minimum price fixed by the board for each parcel, lot, block, or tract below which no bid shall be received. In all cases the land shall be offered in parcels, lots, blocks, or tracts consisting of not more than one section of land. Sales of state land shall be made only to citizens of the United States or to those who have declared their intention to become such, or to corporations organized under the statutes of the state or under the statutes of any other state in the United States, or under United States statutes, or to partnerships composed of persons who are either citizens of the United States or have declared their intention to become such; and all patents and certificates of purchase issued before March 31, 1919, to such persons, entities, or partnerships are validated. If any land is sold on which authorized improvements have been made by lessees, the improvements shall be appraised under the direction of the state board. When lands on which such improvements have been made are sold, the purchasers, if other than the owner of the improvements, shall pay the appraised value of the improvements to the owner thereof, taking a receipt therefor, and he shall deposit such receipt with the state board of land commissioners before he is entitled to a patent or certificate of purchase. All such receipts

shall be filed and preserved in the office of the state board of land commissioners.

(3) After receipt of a notice authorized by section 24-33-107 (2) (a), C.R.S. 1973, identifying lands alleged to have a unique economic or environmental value to the public, the state board of land commissioners shall not proceed with the sale of any lands identified in such notice unless such notice is withdrawn pursuant to section 24-33-107 (2) (c), C.R.S. 1973, or unless and until authorized by resolution or act of the general assembly or for two years thereafter, whichever first occurs. Thereafter, all the requirements of this article as to manner and terms of sale of state lands shall be deemed to have been met with respect to any sale of state lands made to the department of natural resources pursuant to the provisions of section 24-33-107 and article 1 of title 38, C.R.S. 1973.

36-1-125. *Sale—place—reservations.* (1) All sales of state lands shall be held at the state capitol unless otherwise directed by the state board of land commissioners. The state board of land commissioners may, in its discretion, reserve, in the advertisement of sale of any state or school lands, rights-of-way for irrigation and drainage ditches, canals, reservoirs, and other structures and for any roads or highways, and it shall reserve to the state all rights to all minerals, ores, and metals of any kind and character, and all coal, asphaltum, oil, gas, or other like substances in or under said land, and all geothermal resources and the right of ingress and egress for the purpose of mining, together with enough of the surface of the same as may be necessary for the proper and convenient working of such minerals and substances. All

patents and certificates of purchase on state or school lands issued before March 31, 1919, and in which a reservation of rights to minerals, ores, and metals of any kind or character whatsoever, or coal, asphaltum, oil, gas, and other like substances, or geothermal resources has been made are validated. The holders of such certificates of purchase of the owners of said lands so patented shall by contract, deed, or other agreement acknowledge or reconvey to the state the minerals and substances so reserved, and the state board of land commissioners is authorized to accept on behalf of the state such deeds and conveyances and to make such agreements as may be necessary to carry out the provisions of this article.

(2) When the conditions prescribed by statute have been complied with, the state board of land commissioners shall make and deliver to the purchaser a certificate of purchase, containing the name of the purchaser, a description of the land purchased, the sum paid, the amount remaining due, and the date on which each of the deferred payments falls due, and the amount thereof. Such certificate shall be signed by the president and countersigned by the register of the board, and a record of the same kept by him in a suitable book. When a purchaser of any state land has complied with all the conditions of the sale, and paid all purchase money with the lawful interest thereon, he shall receive a patent for the land purchased. The patent shall be signed by the governor, attested by the secretary of state, and countersigned by the register, and have the great seal of the state and the seal of the state board of land commissioners thereto attached. When so signed, the patent shall convey title; but all patents and certificates of purchase issued before March

31, 1919, describing the lands with reference to legal subdivisions shown by the United States official survey, or by lots, blocks, or tracts shown on a recorded plat, or by metes and bounds descriptions, are validated.

36-1-126. *Delinquent payments.* When any purchaser of land defaults for a period of thirty days in any of the payments of either principal or interest due upon the certificate of purchase issued to him, the certificate may be forfeited and the lands reverted to the state upon a notice to that effect mailed to the last known post office address of the puchaser, and which notice shall allow him thirty days additional in which to pay the indebtedness to the state.

36-1-127. *Forfeiture—new sale.* If any purchaser of state land, after receiving a certificate of purchase, as provided in section 36-1-125, fails to make any one of the payments stipulated therein, and the same remains unpaid for thirty days after the time when it should have been paid, as specified in the certificate, the state board of land commissioners, after issuing notice of forfeiture and allowing thirty days additional to pay the indebtedness as provided in section 36-1-126, may sell the land again. In the case of a sale, all previous payments made on account of such land shall be forfeited to the state. The land shall revert to the state and the title thereof shall be in the state as if no sale had ever been made.

36-1-128. *Place of payment—venue.* All moneys due and payable to the state board of land commissioners shall be paid at the office of the state board of land commissioners in the state capitol in the city and county of Denver, Colorado, and all actions for the recovery of same,

or for the cancellation of certificates of purchase, or for the cancellation of leases, or for the recovery of the possession of the land, actions of forcible entry and detainer, or ejectment, shall be brought in any court of competent jurisdiction in the city and county of Denver in the state of Colorado.

36-1-129. *Bonds of purchaser—waste.* When, in the judgment of the state board of land commissioners, a bond by the purchaser of state lands is necessary, the board shall require such purchaser to give a bond upon such conditions as the board may determine. In leasing state lands, the board shall require of the lessee such a bond securing the state against loss of rents or other loss or waste, or occupation of the land for more than thirty days after the cancellation or expiration of the lease of the lessee, unless the lessee becomes the purchaser of the land, and in no case shall the lessee be allowed to cut or use more timber than is necessary for the improvement of the land or for fuel for the use of the family of the lessee; and the cutting and hauling of timber to sawmills, to be sawed on shares, is expressly prohibited.

36-1-130. *Lost certificate of purchase.* When a certificate of purchase is lost or wrongfully withheld by any person from the owner thereof, the state board of land commissioners may receive evidence of such loss or wrongful detention, and upon satisfactory proof of the fact, may cause a certificate of purchase or patent, as the case may be, to be issued to such person as appears to them to be the proprietor of the land described in the original certificate of purchase.

36-1-131. *Determination of conflicting claims.* The state board of land commissioners may hear and deter-

mine the claims of all persons who claim to be entitled in whole or in part to any lands owned by this state, and the decisions of the board shall be held to be final, until set aside by a court of competent jurisdiction. The board also has power to establish such rules and regulations as in its opinion may be proper to prevent fraudulent applications.

36-1-132. *Lands sold subject to taxation.* All lands sold under the provisions of this article or any interest therein shall be subject to taxation, and the register of the state board of land commissioners shall furnish to the county assessor of each county on the first day of May of each year a list of the equities owned or acquired in all lands so sold, to whom sold, the price per acre, and the amount paid. Each county shall pay the expense incurred in compiling such list.

36-1-133. *Rebate of taxes on reverted land.* In case any lands sold under the provisions of this article are reverted to the state for any cause whatsoever, the register of the state board of land commissioners shall at once notify the county treasurer of the county in which the land is situated, and upon receipt of such notice it is the duty of the county treasurer to at once rebate all taxes that have been charged against the lands so reverted.

36-1-134. *Proceeds of sale—funds.* The funds arising from the sale of public school, university, and agricultural college lands shall be held intact for the benefit of the funds for which such lands were granted and shall be known as permanent funds, and the interest and rentals only shall be expended for the purpose of the grant. The funds arising from the sale, leasing, and income of all

other state lands shall be disposed of as provided by law, but in the absence of any other provisions, may be invested in the same manner as the school fund.

36-1-135. *Proceeds of leases—disposition.* All moneys arising from the leasing of agricultural college, university, or public school lands which, on or after March 31, 1919, are received by the state treasurer, shall be treated in all respects in the same manner as is provided by law for the disposition of the interest on the proceeds arising from the sale of the same class of lands.

36-1-136. *Rights-of-way granted—reversion.* The state board of land commissioners may grant rights-of-way across or upon any portion of state land for any ditch, reservoir, railroad, communication system, electric power line, pipeline, or other installation necessary for the operation of said services or utilities and may grant rights-of-way on any tracts of state land to any public agency or instrumentality of the United States, or to this state, or to any of the institutions, agencies, counties, municipalities, districts, or other political subdivisions of this state for the purpose of building schoolhouses or public roads or highways or for any public use or purpose. Any right-of-way so granted shall be on such terms as the board shall determine and shall be subject to the filing fee specified in section 36-1-112(1) (q). Said board may execute and sign, as provided by this article, on behalf of this state, an instrument in writing for such right-of-way or grant. This section shall not be construed to grant authority to said board to convey title to any such land by a grant of right-of-way. Whenever rights-of-way granted for any purposes mentioned in this section cease to be used for such purposes,

the rights-of-way shall terminate and all rights shall revert to this state or its successors in interest.

36-1-137. *Sale of lands to procure irrigation.* (1) For the purpose of furnishing irrigation for state lands, the state board of land commissioners is authorized, when, in their judgment, the interest of the state may be subserved thereby, to sell at public sale, at such place as the board may fix, at not less than the appraised value thereof, which in no case shall be less than the minimum price of three dollars and fifty cents per acre, any tract of arid land belonging to the state. Not more than one-half section of land shall be sold, and in alternate quarter sections, to any responsible person, on condition that the person construct an irrigation ditch in such locality, and of sufficient capacity to furnish water for the entire tract, and so located that the tract may be irrigated therefrom.

(2) Before any of the state lands shall be offered for sale, the party desiring to purchase the lands and construct a ditch shall enter into a contract with the board guaranteeing to bid at least the minimum price per acre, and to complete such ditch within given time, fixed by the board in the contract. The contract shall further provide that the party constructing such ditch shall furnish water for the remaining one-half section of the state lands at such reasonable rates as the board and the parties holding such ditch or canal may agree upon. Such contract shall be drawn by the attorney general, and signed by the president and register of the board, and by the party desiring to construct such ditch.

(3) If any person, other than the person making application for the purchase of the lands, is the highest bid-

der at the public sale thereof, such bidder shall, within such reasonable time as the board may fix, enter into a contract and bond, as required by the provisions of this article, for the construction of the ditch, and for the furnishing of water therefrom; and in the event of his failure to furnish a satisfactory bond and enter into the said contract within the time fixed, then such bid shall be disregarded and such public sale shall be void and of no effect. The board shall make the sale upon like conditions as other state lands are sold, and shall require a good and sufficient bond from the party desiring to construct such ditch, conditioned upon the faithful performance of the contract, and the conditions of the sale, and in no case shall the title to any of said lands pass from the state until the ditch has been completed and accepted by the board.

36-1-138. *Mineral section—personnel—duties.* (1) The state board of land commissioners is authorized to establish, under the jurisdiction of the register of the state board of land commissioners, a mineral section and appoint a superintendent of the same who shall have been a resident of the state for more than ten years last past, who shall be a mining man of known ability for at least ten years, and who shall be thoroughly familiar with mining and the underground workings of mines. It is the duty of the superintendent to inspect in person all mines and other works operated under leases from the state for the production of precious metals, coal, iron, oil, or other mineral products upon which rentals are due to the state upon a basis of a royalty upon the production therefrom, as often from time to time as he shall deem it necessary for the purpose of estimating and checking royalties therefrom, and keep such maps of the workings of all mines

as will give the land department full information concerning the same.

(2) Lessees of all mineral lands, including coal lands, shall be required to furnish the mineral superintendent of this section with copies or blueprints of all maps of underground surveys of leased land, made or authorized by such lessee, including engineer's field notes, certified to by the engineer who made the survey. He shall supervise all mining and require the same to be done in accordance with the best methods of mining. He shall also check the royalties reported as due under such lease for the preceding month and compare the same with the surveys and other inspections made by him; and shall report on or before the twentieth day of such month the result of such examination and checking to the state board of land commissioners. Every mine and other works upon the public domain of the state, held under lease therefrom by any person, association, partnership, or corporation shall be at all times subject to the inspection of the superintendent. He shall inspect and examine all lands held under lease from the state, providing for the payment of royalties from the production therefrom, and report to the state board of land commissioners the condition of said lands, the amount of work and development done thereon by such lessees, and make such recommendations relative thereto as he may deem advisable. A further sum of one thousand dollars annually shall be allowed the superintendent for expenses and employment of an assistant when needed for surveys, to be paid only upon voucher approved by the board and countersigned by the register. Before entering upon his duties as superintendent, the appointee of the state board

of land commissioners shall give bond to the state in the penal sum of ten thousand dollars, conditioned upon the faithful discharge of his duties.

36-1-139. *Royalties on coal—ton defined.* (1) Any person, association, copartnership, or corporation leasing and operating coal lands under the provisions of this article shall pay to the deputy register of the state board of land commissioners a minimum price of not less than fifteen cents for every ton of coal mined from said lands, except that the lands of the Fort Lewis school, in La Plata county, may be leased at a royalty of not less than ten cents per ton, to be paid monthly, on or before the twenty-fifth day of each month, for the coal mined during the preceding calendar month, and except that any person, association, copartnership, or corporation mining coal for the purpose of and to be used in the production of chemicals, synthetic fuels, and development of power at such plant of operation, shall pay to the deputy register of the state board of land commissioners a minimum price of not less than five cents for every ton of coal mined from said lands, if not less than two hundred fifty thousand tons per annum are mined by such person, association, copartnership, or corporation. Any amount less than two hundred fifty thousand tons shall be subject to the fifteen-cent royalty. Every lessee of any such coal lands shall pay royalty based upon the maximum extraction possible by means of modern mining methods and with consideration of the local conditions of the coal seam or seams being operated. All coal produced from lands leased for the operation of plants to produce chemicals, synthetic fuels, and for the development of power

shall be used in such plants exclusively and shall not be sold on the open market.

(2) Should the person, association, copartnership, or corporation leasing coal lands fail to mine during any one year the minimum amount that may be provided for in the terms of the lease, then the amount as paid shall be applied as an advance payment of royalty upon coal actually mined in any subsequent year in excess of the minimum provided for in said lease.

(3) The term "ton" as used in this section means twenty-seven cubic feet of coal, measured in solid, and shall be ascertained by the measurements of the space from which the coal is mined, deducting therefrom all space occupied by slate or other impurities. Such measurements shall be made by the mineral section, according to the provisions of this article. When possible and when the state board of land commissioners shall so order, the coal tonnage may be determined by the coal miners' payroll check number or railroad shipment, and such miners' check number and coal tonnage, determined by weight at the mine tipple, shall be clearly enumerated in the required monthly sworn royalty statements.

36-1-140. *Mineral locations—posting—lease.* Location of mineral claims, may be made upon unleased mineral lands belonging to the state. The discoverer of a body of mineral in either a lead, lode, ledge, deposit, vein, or contact shall immediately post conspicuously a notice declaring that he has made such a discovery on the date attached to the notice. Within ten days after posting said notice, the discoverer must notify the state board of land commissioners of said discovery and arrange for a permit

to explore the extent of the discovery. Within sixty days from date of discovery, the locator shall be required to take a lease upon such terms as may be agreed upon by the state board of land commissioners or apply for an extension of the permit.

36-1-141. *Exchange of lands with governments.* The state board of land commissioners is authorized to exchange any lands, the income from which is devoted to the public schools of the state, the state universities, the state agricultural college, penitentiary, internal improvements, saline, or any other lands which may be under the control of the state board of land commissioners, and which may have been granted to the state by the congress of the United States, for such unappropriated federal lands in the state as the state board of land commissioners may select. The register of said board is empowered to sign all papers necessary to such transfer, under the direction of the board.

36-1-142. *Receipts from agricultural lands.* The state board of land commissioners is required to transmit or cause to be transmitted to the secretary of the state board of agriculture, as the same are received, statements showing each item of receipt of money from all leases or sales and royalties, or as interest on purchase money passing through its hands, derived from agricultural college land grant land, which statement shall name and describe the lands to which the money paid applies, from whom and for what received, and whether the item is credited to land income or permanent fund.

36-1-143. *Statement to board of agriculture.* (1) On or before the second Wednesday in December of every

year, the state board of land commissioners shall furnish to the state board of agriculture a complete statement of all transactions had by them in connection with agricultural college lands, which statement shall show:

(a) Amounts received from sales of such lands, describing the lands sold and the price received for each tract and giving the name of the purchaser;

(b) Amounts received from leases and royalties, describing the lands leased from which such income is derived, and giving the name of the lessee or operator;

(c) Amounts received as interest on purchase money and other items, giving the name of the payer;

(d) Amounts due and unpaid on purchases and leases and other delinquencies, if any;

(e) Such other items as will enable said state board of agriculture to keep informed as to the condition of said lands, the income therefrom, and the manner in which the same are being administered.

36-1-144. *Agreements with general agencies.* The state board of land commissioners is authorized to enter into cooperative agreements on behalf of the state with any federal agency for the improvement and betterment of state owned lands, and to furnish necessary materials and tools in connection therewith.

36-1-145. *Land commissioners' receipts—appropriation.* (1) All moneys collected by the state board of land commissioners shall be deposited with the state treasurer. Moneys received by the state board of land commissioners for fees and services, except fees collected under the provisions of section 36-1-112, shall be credited by the state treasurer to the general fund of the state. All other moneys deposited by the state board of land commissioners shall be credited by the state treasurer to the proper funds as provided by law.

(2) The general assembly shall annually appropriate from the general fund of the state sums sufficient for the operation of the state board of land commissioners.

36-1-146. *Acquisition of right-of-way.* (1) At the direction of the governor, the state board of land commissioners is authorized to acquire a right-of-way for the purpose of obtaining access to public lands located in section 16, township 6 south, range 69 west of the sixth principal meridian, Jefferson county, Colorado, by donation, purchase, or by the exercise of the power of eminent domain through condemnation proceedings in accordance with law.

(2) There is appropriated out of the land commissioners' expense fund as set forth in section 36-1-145 the sum of fifteen thousand dollars, or so much thereof as is necessary, to be used by said board for the acquisition of such right-of-way and for all necessary and actual expenses in connection therewith. This appropriation shall

be made available on or after March 28, 1963, and shall remain available until the acquisition of the right-of-way authorized by this section.

36-1-147. *Geothermal leases.* (1) The state board of land commissioners may lease any portion of the land of the state, or any interest therein, for the purposes of exploring for, producing, and developing the geothermal resources thereunder at a rental to be determined by the board, except as provided in sections 36-1-113 and 36-1-118.

(2) The geothermal leasing arrangements authorized by subsection (1) of this section shall include provision for:

(a) The filing of a surety bond to assure compliance with the lease terms and the requirements of article 70 of title 34, C.R.S.;

(b) Royalties on both the geothermal resource and its by-product;

(c) The protection of the environment, including but not necessarily limited to the air quality, the ground and surface water quality, and the land surface, as well as the rest of the environment.

(3) The geothermal leasing arrangements authorized by subsection (1) of this section are to be administered by the state board of land commissioners in a manner which encourages the maximum economic recovery of geothermal resources, prevents waste of said resources, and protects the public interest in the lands of the state by requiring the exploration for the development and protection of geothermal resources to proceed in an environmentally acceptable manner.

(4) All existing leases on state lands for the development of geothermal resources are hereby validated as though they had been issued pursuant to the authority of this article.

36-1-148. *Land commissioners land and water management fund.* (1) There is hereby created a state board of land commissioners land and water management fund. Such fund is to be generated from fees collected under the provisions of section 36-1-112. The fund is to be under the control of and to be administered by the state board of land commissioners. The fund is to be used only for the management and the improvement of state-owned lands and waters under the control of the state board of land commissioners. Each such improvement or management program is to be for the purpose of securing the optimum possible revenue from such land or water as provided in section 10 of article IX of the state constitution; except that for each such improvement made to state-owned lands utilized for agricultural purposes, the lessee shall contribute no less than twenty percent of the cost of such improvement, by written agreement with the state board of land commissioners.

(2) The state treasurer shall establish such fund from fees submitted pursuant to section 36-1-112. All such fees submitted shall be credited to such fund. Expenditures from such fund shall not exceed fifty thousand dollars in any fiscal year. Any amount in the fund in excess of fifty thousand dollars at the close of a fiscal year shall be forthwith transferred by the state treasurer to the state general fund. Any balance in said fund at the close of a fiscal year not in excess of fifty thousand dollars shall

remain in the fund and shall constitute the fund for the beginning of the next fiscal year.

(3) The controller shall authorize disbursements from said fund as directed by the state board of land commissioners on receipt of a voucher from said commissioners stating that the disbursement is to accomplish a purpose set forth in subsection (1) of this section.

(4) The state board of land commissioners shall submit an annual report of the moneys expended from the fund and matters accomplished by such expenditures for the preceding fiscal year to the general assembly by the convening date of each regular session of each assembly. The filing of said report in accordance with section 24-30-208(9), C.R.S. 1973, shall be deemed sufficient compliance with the provisions of this subsection (4).

(5) This section is repealed, effective January 1, 1985.

APPENDIX 4

COLORADO STATE BOARD OF
LAND COMMISSIONERS

620 Centennial Bldg., 1313 Sherman St.
Denver, Colorado 80203
866-3454

GENERAL INFORMATION REGARDING LEASING OF STATE-OWNED MINERALS

OIL AND GAS LEASES: Leases are offered on a competitive bid basis. Public, oral auctions are normally held on the third Wednesday of each calendar month. Lotteries or drawings are NOT held by the State of Colorado.

Minimum bid is the first year's rental of $1 per acre, plus filing fee as follows: $12.75 for the first 160 acres, or fraction thereof, in the lease; and $1.50 for each additional 160 acres, or fraction thereof, in the same lease. The bidding beyond the minimum bid is *bonus.* Bonus bids are on a per-acre basis and are a one-time payment in addition to the rental and fee. The lease will be awarded to the highest bidder. All monies are due and payable at the auction. Sight drafts will not be accepted. The Board reserves the right to reject any and all bids. Sales are not final until confirmed by the Board, normally at their first regular Sunshine Meeting (usually Monday) following the auction.

Lease term is five years, primary; five years, secondary. Rentals double for the extended five-year term.

Announcement of auction is mailed to all parties on the current mailing list. The enclosed form received by this office is a request for addition to the mailing list.

Selection of tracts to be included are either by request from individuals, industry representatives, or Board option. Requests may be made orally or in writing. The inclusion of a tract which has been requested places no obligation to lease on either the Board or the person making the request. Requests must be received by the first day of the month preceding the auction to be included on the following month's list, i.e., September 1 would be the deadline for the October auction.

Surety bond requirements: A surface restoration bond in the amount of $5,000 for each drill site is required before commencement of development operations. The operator or his agent must contact the surface user well in advance to agree upon access and to solve other problems. After operations have been completed and the surface has been restored, a representative of the Board will check the site and evaluate the amount of damages, if any, to be paid. When all just claims have been paid, the bond will be terminated.

Exploration permits: A permit from this Board is required before exploration activities are commenced. Information regarding permit requirements will be furnished upon request.

COAL LEASES: Like oil and gas, these leases are offered on a competitive bid basis. Requests are reviewed by the Board and questionnaires mailed to various county, state, and federal agencies. Surface users (where known) are notified. Final inclusion of a given tract on the auction list may follow. Auctions are held in conjunction with the oil and gas lease auctions; however, less frequently. (See oil and gas leasing procedure.) Lease term is

ten years. Rentals are $1 per acre per year. Filing fee is the same as for oil and gas leases. Advance minimum royalty is due and payable beginning the sixth year of the lease, as follows: Sixth year—$6 per acre; seventh year—$7 per acre; eighth year—$8 per acre; ninth year—$9 per acre; tenth year—$10 per acre. Advance royalty payments may be applied against production royalty due if production commences before the end of the tenth year. Exploration permits are required (see above).

HARD ROCK AND OTHER TYPES OF MINERALS LEASES: These may be offered on a competitive bid basis. Applications accompanied by the proper nonrefundable filing fee may be filed for available state-owned lands. Questionnaires are mailed to various county, state, and federal agencies. Surface users (where known) are notified. Board reviews all responses and determines issuance of a lease. Term is ten years for hard rock minerals. Five years for sand, gravel, and other surface materials. Rentals are $1 per acre per year. Sand and gravel *permits* may be issued for a fee of $50. Permits do not guarantee exclusive right to an area. Exploration permits are required (see above).

All annual rentals are in addition to royalties.

Sample lease forms are enclosed where applicable.

Questions should be directed to the above address.

APPENDIX 5

(SEAL)

In Reply Refer to
CO-931
C-3581
2620

United States Department of the Interior
Bureau of Land Management
Colorado State Office
Room 700, Colorado State Bank Building
1600 Broadway
Denver, Colorado 80202

Jan 27 1978

Mr. Anthony Sabatini
State Board of Land Commissioners
Room 620, Centennial Building
1313 Sherman Street
Denver, CO 80203

Dear Mr. Sabatini:

This is to keep you informed of our progress toward completing an audit of state indemnity selections. I had hoped by now to have a complete list of lands for which indemnity has not been satisfied but that has not been possible because of the need for more research, and in some cases, legal review of some situations.

It is clear now that the indemnity account is not overdrawn. The following townships, created by survey or by protraction appear to involve unsatisfied indemnity.

	Entitlement (acres)
Sixth Principal Meridian, Colorado	
T. 18½ S., R. 54 W.	320
T. 6 S., R. 82½ W.	640
New Mexico Principal Meridian, Colorado	
T. 39½ N., R. 2 W.	320
T. 37 N., R. 2½ W.	320
T. 39½ N., R. 3 W.	320
T. 39½ N., R. 4 W.	320
T. 37 N., R. 4½ W.	320
T. 38 N., R. 4½ W.	320
T. 39 N., R. 4½ W.	320

I believe this is but a small part of the acreage for which indemnity is outstanding but it will provide a start for you to consider areas in which you might want to select lieu lands.

Sincerely yours,
/s/ Dale R. Andrus

State Director, Colorado

APPENDIX 6

(SEAL)

Commissioners

Rowena Rogers
Wm. H. Claire
Tommy Neal

Anthony Sabatini
Administrator

Thomas E. Bretz
Minerals Director

Robert L. Hapgood
Chief Accountant

BOARD OF LAND COMMISSIONERS
Department of Natural Resources
620 Centennial Building
1313 Sherman St., Denver, Colorado 80203
(303) 839-3454

September 4, 1979

Mr. Dale Andrus, State Director
U. S. Department of the Interior
Bureau of Land Management
Colorado State Office
Room 700, Colorado State Bank Building
1600 Broadway
Denver, Colorado 80202

Attention: Chief, Land Adjudication Branch

Dear Mr. Andrus:

On the basis of the enclosed forms 4-1681 and 2400-7, this application is being submitted for the use and benefit of the State Board of Land Commissioners for School Indemnity Selections under Public Law (72 Stat. 928) Sections 2275 and 2276 of the revised statutes as amended (43. U.S.C. 851, 852). We are enclosing our State Warrant to cover the required non-refundable application service charge of $5.

Base Lands

Archuleta County, Colorado

Sec. 36	Twp. 34N	Range 1½W	64.35 acres
Frac Twp	Twp. 37N	Range 2½W	320.00 acres
Sec. 16	Twp. 34N	Range 3W	267.52 acres

Eagle County, Colorado

Sec. 36	Twp. 6S	Range 82½W	640.00 acres

Garfield County, Colorado

Sec. 36	Twp. 6S	Range 105W	370.55 acres
Sec. 36	Twp. 7S	Range 105W	352.08 acres
Sec. 36	Twp. 8S	Range 105W	348.52 acres

Gunnison County, Colorado

Sec. 36	Twp. 51N	Range 3½E	48.32 acres
Sec. 36	Twp. 46N	Range 1½W	8.81 acres

Hinsdale County, Colorado

Sec. 16	Twp. 37N	Range 3W	320.00 acres
Frac Twp	Twp. 39½N	Range 3W	320.00 acres

Kiowa County, Colorado

Frac Twp	Twp. 18½S	Range 54W	320.00 acres

Kit Carson County, Colorado

Sec. 36	Twp. 5½S	Range 46W	89.12 acres

La Plata County, Colorado

Sec. 16	Twp. 32N	Range 9W	320.00 acres
Sec. 16	Twp. 32N	Range 13½W	640.00 acres

Mesa County, Colorado

Frac Twp	Twp. 8½S	Range 93W	320.00 acres

Mineral County, Colorado

Frac Twp	Twp. 39½N	Range 2W	320.00 acres

Montezuma County, Colorado

Frac Twp	Twp. 32N	Range 14W	320.00 acres
Frac Twp	Twp. 32N	Range 15W	320.00 acres
Frac Twp	Twp. 32N	Range 16W	320.00 acres

Rio Grande County, Colorado

(Frac. pt. of base)

Sec. 36	Twp. 39N	Range 3½W	301.60 acres
Sec. 36	Twp. 37N	Range 5½E	189.13 acres

Saguache County, Colorado

Sec. 36	Twp. 48N	Range 4½E	320.00 acres

Total Base Lands 6,840.00 acres

Selected Lands
Rio Blanco County, Colorado
Twp. 3S Range 97W

Sec. 17	SE¼ SE¼	40.00 acres
Sec. 20	E½	320.00 acres
	S½ SW¼	80.00 acres

Rio Blanco County, Colorado
Twp. 3S Range 97W

Sec. 21	N ½	320.00 acres
	S ½	320.00 acres
Sec. 22	W ½	320.00 acres
Sec. 27	NE ¼ SW ¼	40.00 acres
	W ½ SW ¼	80.00 acres
	NW ¼	160.00 acres
Sec. 28	N ½	320.00 acres
	S ½	320.00 acres

Sec. 29	N ½	320.00 acres
	SE ¼	160.00 acres
	SW ¼	160.00 acres
Sec. 30	E ½ SE ¼	80.00 acres
	SW ¼ SE ¼	40.00 acres
Sec. 31	E ½	320.00 acres
	E ½ SW ¼	80.00 acres
	SE ¼ NW ¼	40.00 acres
Sec. 32	NE ¼	160.00 acres
	S ½	320.00 acres
	NW ¼	160.00 acres
Sec. 33	N ½	320.00 acres
	NE ¼ SE ¼	40.00 acres
	SE ¼ SE ¼	40.00 acres
	W ½ SE ¼	80.00 acres
	SW ¼	160.00 acres
Sec. 34	W ½ SW ¼	80.00 acres
	NW ¼ NW ¼	40.00 acres

Twp. 4S Range 97W

Sec. 4	NW ¼NE ¼ (Including Lot 2)	40.00 acres
	SW ¼ SE ¼	40.00 acres
	SW ¼	160.00 acres
	NW ¼ (Including Lots 3 and 4)	160.00 acres
Sec. 5	NE ¼ (Including Lots 1 and 2)	160.00 acres
	NE ¼ SE ¼	40.00 acres
	S ½ SE ¼	80.00 acres
	NW ¼ SE ¼	40.00 acres
	W ½ (Including Lots 3 and 4)	320.00 acres

Rio Blanco County, Colorado
Twp. 4S Range 97W

Sec. 6	E ½ (Including Lots 1 and 2)	320.00 acres
	SW ¼ (Including Lots 6 and 7)	160.00 acres
	NW ¼ (Including Lots 3, 4, and 5)	160.00 acres
Sec. 9	N ½ NW ¼	80.00 acres

Twp. 4S Range 98W

Sec. 1 E ½ E ½ 160.00 acres

Total Selected Lands 6,840.00 acres

The causes of loss of the herein described Base Lands is due to the following:

1. Within *see below* National Forest prior to survey.
2. Within Ceded Indian Lands prior to survey.
3. The extent that a surveyed school section lacks 640.00 acres, due to the section being fractional in quantity. (43 USC-851, 852)
4. The extent that the surveyed township lacks school sections due to the township being fractional or from any natural cause whatever. 43 USC-851, 852)

Base Lands
Archuleta County, Colorado

			Cause of Loss
Sec. 36	Twp. 34N	Range 1½W	1-San Juan, 3 & 4
Frac Twp	Twp. 37N	Range 2½W	1-San Juan & 4
Sec. 16	Twp. 34N	Range 3W	2, 3 & 4

Eagle County, Colorado

Sec. 36	Twp. 6S	Range 82½W	1-White Riv. & 4

Garfield County, Colorado

Sec. 36	Twp. 6S	Range 105W	2, 3, & 4
Sec. 36	Twp. 7S	Range 105W	2, 3 & 4
Sec. 36	Twp. 8S	Range 105W	2, 3 & 4

Gunnison County, Colorado

Sec. 36	Twp. 51N	Range 3½E	1-Gunnison, 3 & 4
Sec. 36	Twp. 46N	Range 1½W	4

Hinsdale County, Colorado

Sec. 16	Twp. 37N	Range 3W	1-San Juan, 3 & 4
Frac Twp	Twp. 39½N	Range 3W	1-Rio Grande & 4

Kiowa County, Colorado

			Cause of Loss
Frac Twp	Twp. 18½S	Range 54W	4

Kit Carson County, Colorado

Sec. 36	Twp. 5½S	Range 46W	3 & 4

La Plata County, Colorado

Sec. 16	Twp. 32N	Range 9W	2, 3 & 4
Sec. 16	Twp. 32N	Range 13½W	2, 3 & 4

Mesa County, Colorado

Frac Twp	Twp. 8½S	Range 93W	1-Grand Mesa & 4

Mineral County, Colorado

Frac Twp	Twp. 39½N	Range 2W	1-San Juan & 4

Montezuma County, Colorado

Frac Twp	Twp. 32N	Range 14W	2, 3 & 4
Frac Twp	Twp. 32N	Range 15W	2, 3 & 4
Frac Twp	Twp. 32N	Range 16W	2, 3 & 4

Rio Grande County, Colorado

Sec. 36	Twp 39N	Range 3½W	1-Gunnison & 4
Sec. 36	Twp. 37N	Range 5½E	1-Rio Grande & 4

Saguache County, Colorado

Sec. 36	Twp. 48N	Range 4½E	1-Gunnison, 3 & 4

It is hereby certified that the State of Colorado has not heretofore assigned said bases or any portion thereof in any list now pending or completed.

It is hereby certified that the lands selected for School Indemnity are unappropriated and are not occupied, claimed, improved or cultivated by any person adversely to the State.

It is hereby certified that the said Selected lands do not contain any springs, waterholes or other bodies of water needed or used by the public for watering purposes, further that the said lands contain no hot springs or other springs having curative properties.

It is hereby certified that the lease lands lost have been determined to be mineral in character by the Colorado Geological Survey. It is further certified that the Colorado Geological Survey has determined that the selected lands are mineral in character since said lands contain oil shale deposits.

It is hereby certified that there has been no indemnity granted for the herein described Base lands nor is there any previous Selection pending.

It is further certified that the amount of Selection herein described does not exceed the total amount of Indemnity Selections due the State of Colorado.

It is hereby certified that no instrument, purporting to convey or in any way encumber the title to any of the lands used as base or bases has been issued by the State or its agents on those lands in this State Indemnity Application.

It is hereby certified that the State Board of Land Commissioners was created under Article IX, Section 9 of the Constitution of the State of Colorado; and that under Article IX, Section 10 of the Constitution, the State Board

of Land Commissioners shall have the duty of selecting lands which may be granted to the State by the general government under such regulations as may be prescribed by law. (Colorado Revised Statutes 1973, Chapter 36-1-105.)

The selection made herein only constitutes a portion of the lands to which Colorado is entitled. The Bureau of Land Management has determined that Colorado is entitled to indemnity for 11,482.31 acres. The selection made herein comprises only 6,840.00 acres. One or more supplemental selections will be made for the remaining acreage of the states entitlement.

IN WITNESS WHEREOF, I, Rowena Rogers, President; Tommy Neal, Register; and Wm H Claire, Engineer, of the State Board of Land Commissioners have hereto set our hands and the seal of the said Board on this 4th day of September, A. D. 1979.

/s/ Rowena Rogers
President, State Board of
Land Commissioners

/s/ Tommy Neal
Register, State Board of
Land Commissioners

/s/ Wm H Claire
Engineer, State Board of
Land Commissioners

(SEAL)

Received by Bureau of Land Management on this 4th day of September, 1979.

By B. McDougal
Title Cashier

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

STATE APPLICATION FOR SELECTION
Sections 2275 and 2276 of the Revised Statutes
(43 U.S.C. 851, 852), as amended,
and other State grant Acts

1. Name of Selecting Agent (First, middle initial, last)

State of Colorado, Acting by and Through State Board of Land Commissioners

Address

Room 620, Centennial Building
1313 Sherman Street
Denver, CO 80203

2. I CERTIFY that:

a. This application for the selection of the public lands which are described in the attached papers is made under and pursuant to the laws of the State of Colorado

b. What is your official title?

Rowena Rogers, President; Tommy Neal, Register; Wm H Claire, Engineer

c. What authority do you have to make this selection in behalf of the State?

Article IX, Section 10 of the Constitution of the State of Colorado stipulates that the State Board of Land Commissioners shall have the duty of selecting lands that may be granted to the State by the general government under such regulations as may be prescribed by law. (Colorado Revised Statutes 1973, Chapter 36-1-105)

d. Insofar as the application does not involve the selection of a mineral estate, no portion of the related land is occupied for any purpose by the United States and that the land is unoccupied, unimproved, and unappropriated by any person claiming the land other than the applicant.

e. Have you attached to this application the information required in 43 CFR, Part 2701

[X] Yes ☐ No

President /s/ Rowena Rogers
Register /s/ Tommy Neal
Engineer /s/ Wm H Claire

(Date) 9-4-79 (Signature)
(SEAL)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
PETITION FOR CLASSIFICATION

A Petition to Classify and Open Public Lands to Entry or Otherwise to Make Them Available for Disposition

Notice to Petitioner—Applicant

Your application (which must be attached hereto) requires the Secretary of the Interior to take an action that is entirely within his discretion. The basis for the Secretary's authority and the policies and procedures which he has established under that authority, are described in the regulation 43 CFR 2410, 2430, and 2450. A copy of these regulations can be secured from any land office of the Bureau of Land Management.

PETITION

I HEREBY PETITION The Secretary of the Interior to have the lands described in the attached application classified or otherwise made available for entry or disposition pursuant to my application.

I understand that if the Authorized Officer of the Bureau of Land Management does not make the lands available for disposition pursuant to my application, the regulations (43 CFR 2450) are applicable to my case.

The State of Colorado, Acting by and Through The State Board of Land Commissioners

President /s/ Rowena Rogers
Register /s/ Tommy Neal
Engineer /s/ Wm H Claire

(Date) (9-4-79) (Signature of Petitioner-Applicant)

(SEAL)